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REMARKS

Reconsideration of the above referenced application is respectfully requested. Upon entry of the foregoing amendment, Claims 1, 3-5, 7-10, 12-20 are presently pending. Claims 3-5, 7, 12 and 14 have been amended. Claims 2, 6 and 11 have been cancelled. Applicants reserve the right to pursue the subject matter of the cancelled claim in one or more continuation or divisional applications. No new matter has been introduced and entry of the amendment is requested.

As a preliminary matter Applicants acknowledge and appreciate the allowance of Claims 1, 8-10 and 17-20.

Support for Amendments

Support for the claim amendments is found in paragraphs 21 through 23 of the specification of the published application, wherein description for the L1-TR promoter sequence and ED-L1 sequence are provided as follows: The L1-TR promoter sequence comprises a transcription initiation site at nucleotide 170,099 of Gen Bank Accession No. NC_001345, a 17-bp GC box region found at nucleotides 170,130 to 170,147 of B95-8 EBV DNA and a STAT binding region found at nucleotides 170,115 to 170,123. The ED-L1 promoter comprises a sequence complementary to nucleotides 64 to 70 and nucleotides 158 to 167 of SEQ ID NO:1.

Rejections under 35 U.S.C. § 102(a)

Claims 2 and 6 stand rejected under 35 U.S.C. 102(a) as being anticipated by Chia et al.

Chia et al. is cited as disclosing a replication competent adenovirus vector comprising the EBV oriP-FR region and basal CMV IE promoter for expression of a reporter gene, luciferase or beta gal. The Office Action states that Claims 2 and 6 read on any EBV TRE comprising any sequence of 2 or more contiguous nucleotides of SEQ ID NO:1 or 2.

Chia does not teach or suggest a replication-competent adenovirus vector comprising an adenovirus gene essential for replication (i.e. E1A or E1B) under transcriptional control of an Epstein Barr Virus (EBV)-specific transcriptional regulatory sequence selected from the group

consisting of a sequence upstream of the translational start codon for the LMP1 gene, presented as SEQ ID NO:1, a sequence upstream of the translational start codon for the LMP2A gene, presented as SEQ ID NO:2 and the Cp promoter sequence, presented as SEQ ID NO:3, as presently claimed.

Claims 2 and 6 have been cancelled rendering the current rejection moot. Accordingly, the rejection under 35 U.S.C. § 102(b) should be withdrawn.

Rejections under 35 U.S.C. § 112, first paragraph, written description

Claims 2 and 6 stand rejected under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement.

On page 4, the Office Action states that Applicants claim a replication competent adenoviral vector comprising a gene essential for replication under transcriptional control of an EBV specific TRE and that Applicants provide a written description for EBV TREs which are EBV specific transcriptional response elements. The Office Action further states that Claims 2 and 6 read on any EBV TRE comprising any sequence of 2 or more contiguous nucleotides of SEQ ID NO:1 or 2.

Claims 2 and 6 have been cancelled rendering the rejection moot. Accordingly, the rejection under 35 U.S.C. 112, first paragraph should be withdrawn.

Rejections under 35 U.S.C. § 112, second paragraph,

Claims 2, 4-6 and 12-16 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for the reasons set forth on page 5 and 6 of the Office Action.

Claims 2 and 6 have been cancelled.

Claims 4 and 5 have been amended to more specifically indicate the regions of the ED-L1 and L1-TR regulatory regions that are being claimed.

Claims 12 and therefore dependent Claim 13 have been amended to recite "second adenoviral gene", as suggested by the Examiner.

Claim 14 has been amended to provide antecedent basis for said adenoviral gene essential for replication by clarifying that it is the "first" adenoviral gene essential for replication.

Applicants respectfully submit that the grounds for this rejection have been obviated by the amendments set forth above. Withdrawal of the rejection under 35 U.S.C. § 112, second paragraph, is respectfully requested.

Objections under 37 CFR 1.75(c)

Claims 2 and 6 stand objected to under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Claims 2 and 6 have cancelled rendering the rejection moot.

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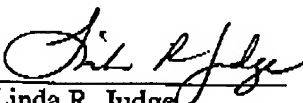
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CONCLUSION

In light of the above, Applicants submit that this application is now in condition for allowance and therefore request favorable consideration. If any issues remain which the Examiner feels may be best resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact Applicants' counsel, Linda R. Judge at (415) 836-2586.

Respectfully submitted,

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